

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA**

In re

SHERLOCK STORAGE, LLC,

Debtor.

Case No. **9:22-bk-90150-BPH**

ORDER

In this Chapter 11 small business case, on August 7, 2023, Debtor filed a Motion for Use of Cash Collateral at ECF No. 112, a Motion to Expedite Hearing at ECF No. 113 (collectively, “Motion”), and a Motion to Shorten Notice at ECF No. 114 (“Notice Motion”). The Motion explains that Debtor requires the immediate release of rents and profits, requesting a preliminary hearing and a final hearing that would authorize the use of cash collateral. The Notice Motion seeks to reduce the notice period in which a party in interest may object to Debtor’s Cash Collateral Motion from 14 days to August 9, 2023, essentially two days.

11 U.S.C. § 363(c)(2) permits a trustee (or debtor-in-possession) to use cash collateral only if it has received the consent of the creditor with an interest in the collateral or court authorization granted after notice and a hearing. Fed. R. Bankr. R. 4001(b)(2) allows a preliminary hearing on a motion to use cash collateral that authorizes the limited use of cash collateral such that is necessary to avoid immediate and irreparable harm to the estate during the period before a final hearing may be held. A final hearing may be held on a minimum of 14 days’ notice. Fed. R. Bankr. P. 4001(b)(2).

Having considered the Motion and other filings on the docket, the Court is not persuaded that an expedited preliminary hearing is necessary absent some indication of specific harm by Debtor. Debtor generally explains that authorization of the use of cash collateral is needed “so that it may pay utilities, insurance, property taxes, supplies, fuel, office rent, repairs and maintenance, professional fees, miscellaneous expenses, and living expenses/draws and other operating expenses” but provides no specifics as to how a preliminary hearing is necessary to avoid immediate and irreparable harm to the estate.

Further underscoring the Court’s conclusion is the Notice filed on June 21, 2023, by creditor Holly M. Mohorcich, Trustee of the Mark Mohorcich Irrevocable Trust (“Creditor”) no longer authorizing Debtor’s use of cash collateral securing its claim. The Notice set a hearing date of June 30, 2023, and the parties subsequently agreed to continue the hearing on Debtor’s continued use of cash collateral in the Unopposed Motion to Continue Hearing filed by Creditor on June 27, 2023, at ECF No. 98. To the extent there are expenses that now require immediate payment, the Motion is silent as to whether these expenses were known at the time the parties agreed to continue the hearing. The Court will not read into the Motion what is not there and is not persuaded expedited relief and shortened notice is appropriate. Accordingly,

IT IS HEREBY ORDERED that the Motion to Expedite Hearing and the Motion to Shorten Notice are denied. The hearing on Debtor's Motion for Use of Cash Collateral shall remain on **August 30, 2023, at 09:00 a.m.**, or as soon thereafter as the parties can be heard, in the BANKRUPTCY COURTROOM, RUSSELL SMITH COURTHOUSE, 201 EAST BROADWAY, MISSOULA, MONTANA.

Dated August 8, 2023.

BY THE COURT:



Hon. Benjamin P. Hursh
United States Bankruptcy Court
District of Montana